

## **Public Records Access: Overview**

Chapter 2 of the City of Las Vegas Municipal Records Manual is a guide for Records Delegates, Department Directors, Managers and assistants within the departments to use when addressing public records access issues. The Policy is the guideline and the Procedures will assist with the day-to-day “how to’s” when addressing public records access as established by the Records Management Committee.

### **Public Records Access Policy**



The City of Las Vegas Records Management Committee approved the following Public Records Access Policy on November 29, 2000 and the Public Records Procedure, revised December 21, 2001.

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#### **P O L I C Y**

It is the Policy of the City of Las Vegas to have all City departments, agencies and personnel provide access to public records promptly, consistently and with legal responsibility in accordance with the law and the City’s Public Records Access Procedures.

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#### **P R A C T I C E**

Except as herein provided, all of the public records shall be open for public inspection and copying, but any officer or agency of the City having the custody of such records may make reasonable rules governing the time, place and manner of inspection and copying. Further, copies or electronic duplicates of City records may be substituted in lieu of the original records and reasonable costs may be collected. Public records, the disclosure of which would invade a person’s right to privacy, hinder law enforcement, endanger the public safety, breach a legally recognized duty of confidence, the nondisclosure of which is legally privileged, or which constitute attorney-client communications between city staff and the City Attorney’s office, may not be available for public inspection. A determination of nondisclosure must be made in consultation with the City Attorney’s Office.

# Public Records



## Introduction

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Nevada Revised Statutes 239.010 essentially requires that all PUBLIC BOOKS AND PUBLIC RECORDS, the contents of which are not otherwise declared by law to be confidential, must be open at all times during office hours to inspection by any person, and that the books and records may be copied or abstracted or memoranda taken there from. Reasonable fees may be collected to recover the costs of duplication and retrieval. No new record is required to be created if the requested record is not one which is regularly generated or maintained. The definitions provided below are terms used throughout the procedure.

## DEFINITIONS

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**“PUBLIC RECORD”** means any record in any form, not declared by law to be confidential, which has been produced or received by the City of Las Vegas and is maintained by any city office for the purposes of performing a function of City government. The term does not include books, pamphlets, worksheets, and informal notes. See “Records with No Retention Value” contained in this manual, which are not considered public records. No record that has been declared by law to be confidential constitutes a public record.

**“ROUTINE REQUEST”** is a public record request for departmental public records of regular and minimal difficulty to provide.

**“MULTI-DEPARTMENTAL REQUEST”** is a public record request which requires production of records from multiple departments.

**“EXTRAORDINARY REQUEST”** is a public record request which involves information that is not in a readily available medium or may require research, analysis or extensive staff time to compile or retrieve. Such requests may apply to individual or multiple departments.

**“MEDIA”** includes recognized members of newsgathering agencies, reporters, or other correspondents.

**“REQUESTOR”** is the person making a request to review or copy public records maintained by the City of Las Vegas.

**“BALANCING TEST”** is a determination of whether the interest in public disclosure is outweighed by public or private interests in maintaining the confidentiality of a particular public record.

**“COPYRIGHT”** is the exclusive right of the author or creator of a literary or artistic property to copy, print, sell, license, distribute or transform to another medium. The fact that a record in the possession of the City has been copyrighted does not necessarily forbid its reproduction in response to a public request.

**“STANDARD PAGE”** for copying fee purposes is letter/legal size paper (8 1/2”X11” or 8 1/2”X14”) black and white reproduction and computer-generated reports produced on the above size paper.

# Procedure For Release of Public Records



## SCOPE

These procedures apply to any request for public records.

No cost will be assessed for inspection of existing records.

Copies of public records may be obtained for a standard copying fee.

Requests for reproduction of public records should be in writing and may be faxed, e-mailed, hand-delivered, mailed or submitted in person. A sample Public Records Request form is attached (Attachment A). Information required on this form is requestor's name, address, contact information and specific documents requested. However, if the requestor is unwilling to provide the request in writing, staff may complete a Public Records Request form on behalf of the requestor. The sample form may be modified by a Department Director to meet the department's requirements.

Original public records must not be removed from City Offices during inspection by members of the public and must be monitored by an employee while any review is being conducted.

If there is an issue concerning inspection or reproduction of a requested document, the City Attorney should be consulted. The City Attorney will assist with the issues of whether: 1) The item requested is actually a public record, available for review and reproduction; or 2) The item requested is a public record which some special legal considerations dictate should not be made available for inspection and reproduction. Review of the second issue involves the conduct of a legal balancing test. If a balancing test is to be performed, the requestor should be informed and then notified as soon as a decision has been made. Balancing tests should be performed without delay.

Copyrighted materials may be duplicated - without risk of infringement - when reproduction is for the specific purpose of: "criticism, comment, news reporting, teaching, scholarship, or research" (17 U.S.C.A. Sec. 107). When the custodian is aware that some other use is intended, consultation with the City Attorney may be necessary to insure there is no infringement by reproduction of copyrighted material.

Confidential records of federal, state, and local governments shared with the City **MUST NOT** be disclosed without prior written authorization from that government agency.

The Public Records Request form will be kept on file for one year from the date of the request and is, itself, a public record.

All department fee schedules for public record reproduction must be posted in public view.

# Routine Public Record Requests



**Unless exempt by statute, the following procedures shall apply:**

- Records will be provided within one day if possible. If additional time is required, the requestor will be informed accordingly. If the records are maintained on microfilm, copies should be made within three working days.
- The requested copies of records shall be furnished upon payment of copying fees established by the City Council (R-103-2001, Attachment B) or by a special Departmental fee schedule reflecting actual medium and labor costs.
- The requestor is to be advised that reproduced materials will be held for 14 days and subsequently destroyed if not claimed. If orders for reproduction of under \$25.00 are not claimed, a charge for the second reproduction in addition to the original charge for the first reproduction will be assessed. Prepaid fees will be forfeited if material is never retrieved.
- One who requests copies is to be advised if cost of reproduction exceeds \$25.00 and that advance payment in full will be required to process the request.
- The requestor must be provided with a receipt for payment of any reproduction or compilation costs.

The Office of Communications will be notified when requests to inspect or obtain copies of public records are received from members of the media, and will help coordinate requests involving multiple Departments. This can include compilation of the records, collection of necessary fees, and delivery of the documents.

# Multi-Departmental Public Record Request



If a public records request involves records from multiple departments, inform the requestor that their request must be directed to the Office of the City Clerk. If the requestor is unwilling to provide the request in writing, have them contact the City Clerk's Office directly.

## **City Clerk's Responsibilities:**

- Immediately review the request.
- Contact the appropriate departments to determine if the requested public records exist. Notify the requestor of the time required to obtain the record, compilation cost (if any) and the cost for reproduction, and follow up with the requestor in a timely manner.
- If costs will exceed \$25.00, inform the requestor that payment in full will be required to process the request. Immediately following receipt of payment, notify department to proceed.
- Records will be provided within one day if possible. If additional time is required, the requestor will be informed accordingly. If the records are maintained on microfilm, copies should be made within three working days.
- Advise the requestor that reproduced materials will be held for 14 days and subsequently destroyed if not claimed. If not retrieved (and the material is under \$25.00), a charge for the second reproduction in addition to the original charge for the first reproduction will be made. Pre-payment will be forfeited for larger orders if the material is never retrieved.
- Provide requestor with receipt for payment of any reproduction or compilation costs.
- The multi-Departmental records will be delivered to the Clerk, who shall be responsible for delivery to the requestor and for collection of costs on behalf of the departments.

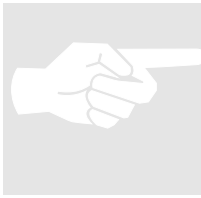
## **Departmental Responsibilities:**

- Provide the City Clerk's Office with the time necessary to produce the requested record, the approximate number of pages, and the cost.
- Upon direction from the City Clerk's Office to process the request, immediately compile the requested record and deliver to the City Clerk's Office.

The Office of Communications will be notified when requests to inspect or obtain copies of public records are received from members of the media, and will help coordinate requests involving multiple Departments. This can include compilation of the records, collection of necessary fees, and delivery of the documents.

Public records provided by an Enterprise Fund division will be picked up and paid for at the division location.

# Extraordinary Public Record Request



When responding to a public record request, it may be determined that significant use of personnel or resources will be required to produce the requested record. This would be classified as an Extraordinary Public Record Request and such a request may apply to individual or multiple departments. Fees may be imposed in accordance with NRS 239.055 and the following shall occur:

One who requests copies is to be advised if the cost of reproduction exceeds \$25.00 and that payment in full of the minimum estimated amount will be required to process the request.

If the requestor is a member of the Media, please notify the Office of Communications promptly. The Office of Communications may be able to assist the requestor and the Department with refinement of the request, compilation of the records, collection of necessary fees and delivery of the documents.

The following criteria are to be used when responding to extraordinary requests. These criteria are guidelines and may be expanded depending upon the circumstances of the request. In all cases, requestors are to be informed of and deposit the estimated fee prior to filling the request.

- For electronic databases, electronic records or services that are value-added products and beyond the scope of the public's ability to access and inspect, consult with the Department of Information Technologies.
- Estimated manpower costs to retrieve or reproduce the record(s).
- Estimated material charges to retrieve or reproduce the record(s).

The Office of Communications will be notified when requests to inspect or obtain copies of public records are received from members of the media, and will help coordinate these requests involving multiple Departments. This can include compilation of the records, collection of necessary fees, and delivery of the documents.

Public records provided by an Enterprise Fund division will be picked up and paid for at the division location.

# Fees

## General Information



Public records will be provided in accordance with the fee schedule adopted in Resolution No. R-103-2001 (Attachment B); the schedule sets a copying fee of \$1.00 per page for a standard 8 ½ X 11 or 8 ½ X 14 documents which are readily recoverable and a certification fee of \$2.00 per document.

## Records Management Committee

In accordance with Resolution No. R-103-2001, the City has established a Records Management Committee who has the authority to consider and set departures from standard copying and certification fees, and shall offer its services on a consultation basis for all other charges.

As evidenced by Resolution No. R-103-2001, the Las Vegas City Council recognizes that certain public record reproduction requests involve variable costs for compilation or reproduction expenses for the City. When alternate, additional fees have been developed in advance because such requests are anticipated, it would be prudent for the Department to publish and post such fees after consultation with the Records Management Committee.

## Other Costs

Materials produced in advance for the promotion of City activities may be available for reduced fees. Additionally, the City may publish material because regular requests are anticipated and, for such items, special fees may be set. If a published supply of documents has been exhausted and republication is not warranted, the standard fee schedule adopted by the City Council will apply.

Public record copying costs are waived for government requestors who waive their copying costs for the City.

When recovery or reproduction of records involves unusual material or labor expenses, the requestor will be responsible for the additional expenses. Requestors should be notified of these costs before recovery or reproduction begins.

## Departmental Fee Schedule for Alternate Medium

City departments may provide services and materials for which fees may be assessed. The Department Director shall establish these fees. The Records Management Committee encourages the use of actual cost and consistency with fees used by other City Departments when establishing their fees.



# Public Records Request Form



A generic public records request form (Attachment A) is provided to assist the departments. Departments may expand this form as needed but the form should contain no less information than the generic form. For those departments receiving requests for copyrighted materials, a warning may be added to their Public Records Request Form that the use of copyrighted materials for any other purpose other than “criticism, comment, news reporting, teaching, scholarship or research” may constitute copyright infringement (17 U.S.C.A Sec. 107). See definitions for explanation.

## **Authority**

NRS 239.010 Public books and records open to inspection; copyrighted books, and records;

NRS 239.054 Additional fee for information from geographic information system;

NRS 239.055 Additional fee when extraordinary use of personnel or resources is required;

LVMC 2.60.060 Public records custody and control

City of Las Vegas Resolution R-103-2001

## **Appendix**

ATTACHMENT A – Generic Public Records Request Form

ATTACHMENT B – Resolution R-103-2001

## Attachment A – Request Form

# City of Las Vegas

### Generic Public Records Request Form

Requestor: \_\_\_\_\_ Date of Request: \_\_\_\_\_

Address: \_\_\_\_\_

How may we contact you? \_\_\_\_\_

I hereby request the following City of Las Vegas public records be: A.) made available for review and inspection B.) copied C.) copied and certified (**circle one**)

Record Requested:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I understand there is a charge for copies of public records. Further, I understand that if the estimated cost of the copies I have requested is \$25.00 or more, I will be required to pay in full prior to reproduction. Materials will be held for 14 days. If not retrieved, I will be charged in full for a second reproduction in addition to any unpaid original charges. Advance payment will be forfeited if material is not retrieved.

Signature \_\_\_\_\_

**This form is a public record and will be retained for a period of one year from creation.**

Information above this line must be included on all Departmental Public Records Request Forms. Below the line is for staff to complete.

**Type of Request:** Routine      Multi-Departmental      Extraordinary      (**circle one**)

**Use following for calculation of charges:**

Number of copies \_\_\_\_\_ X \$1.00 per standard page = \$ \_\_\_\_\_

+ Certification Fee \$ \_\_\_\_\_ @\$2.00 per certification

**If an Extraordinary request:**

Number of staff hours \_\_\_\_\_ X (rate) \_\_\_\_\_ = \$ \_\_\_\_\_

Type of material \_\_\_\_\_ (cost) \_\_\_\_\_ = \$ \_\_\_\_\_

Staff Notes & Status:

\_\_\_\_\_

Completion Date: \_\_\_\_\_ By: \_\_\_\_\_ (Initials)

Delivered to: \_\_\_\_\_ Date: \_\_\_\_\_ By: \_\_\_\_\_

## **Attachment B – Resolution**

### **RESOLUTION No. R-103-2001**

A RESOLUTION CONCERNING THE FEES CHARGED FOR COPYING AND CERTIFYING PUBLIC RECORDS WHICH GRANTS AUTHORITY TO THE CITY'S RECORDS MANAGEMENT COMMITTEE TO APPROVE DEVIATIONS FROM STANDARD CHARGES.

WHEREAS, the City Council adopted Resolution R-117-95 at its regular meeting held on December 6, 1995, establishing fees to charge the public for copying and certification of public records; and

WHEREAS, the City Council has determined that those fees of one dollar (\$1.00) per standard page for copying and two dollars (\$2.00) per certification continue to be appropriate and that no changes are currently required for the general reproduction and certification of public documents; and

WHEREAS, the City Council recognizes that certain public record production requests involve variable costs for compilation or reproduction expenses for the City; and

WHEREAS, the Records Management Committee, established pursuant to LVMC 2.06.030, has been granted authority to set policy and procedure for the City's public records and is regarded by the City Council as being capable of evaluating extraordinary expenses in document retrieval and reproduction with knowledge and fairness;

THEREFORE, BE IT RESOLVED by the City Council of the City of Las Vegas that the Records Management Committee of the City of Las Vegas will have the authority to consider and set departures from the standard copying and certification fees upon a showing of good cause by the repository Department of the City.

BE IT FURTHER RESOLVED that this Resolution supersedes Resolution R-117-95 previously adopted by the City Council.

PASSED, ADOPTED, APPROVED by the City Council of the City of Las Vegas

This 15th day of August, 2001

CITY OF LAS VEGAS  
/s/OSCAR B. GOODMAN, Mayor

ATTEST:  
/s/BARBARA JO RONEMUS, City Clerk

APPROVED AS TO FORM:  
/s/JOHN REDLEIN, Assistant City Attorney